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ARTICLE 1. INTRODUCTION

1.1. Authority.

1.1.1. Pursuant to authority conferred by Title 30-A M.R.S.A. Sections 4352 and 4353 and in accordance with the provisions of Title 38 M.R.S.A. Sections 435-449, as amended from time to time, the following ordinance is enacted by the City Council.

1.2. Title.

1.2.1. This ordinance and the accompanying official zoning map shall be known and may be cited as the "Zoning Ordinance, City of Waterville, Maine."

1.3. Purpose.

1.3.1. The purpose of this ordinance is to promote the health, safety, and general welfare of the residents of the city; to encourage the most appropriate use and prevent the overcrowding of all land; to lessen danger from congestion, fire, and other elements; to provide adequate light and air; to promote good civil design and arrangement; to avoid undue concentration of population and to promote wholesome home environments; to improve and beautify the city; to

provide harmonious arrangement of residential, commercial, and industrial areas; to conserve natural resources and amenities; to provide an adequate street system; to promote the coordinated development of unbuilt areas; to encourage the formation of community units; to provide an allotment of land area in new developments sufficient for all the requirements of community life; to provide for affordable housing for low income and moderate income households.

1.4. Jurisdiction.

1.4.1. The provisions of this ordinance regulate the use of all land and water areas; the location, use, construction, repair, alteration, height, number of stories, and bulk of all buildings and structures; the size and open spaces of real estate, population density, and the setback of structures along public rights-of-way and boundary lines. The provisions further provide for traffic safety and general welfare.

1.5. Minimum requirements established.

1.5.1. In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for promotion of health, safety, convenience, and general welfare in the City of Waterville.

1.6 Availability. A certified copy of this ordinance is filed with the city clerk and is accessible to any member of the public. Copies are available to the public at reasonable cost at the expense of the person making the request. Notice of the availability of this ordinance is posted.

ARTICLE 2. ESTABLISHMENT OF DISTRICTS; PROVISION FOR OFFICIAL ZONING MAP

2.1. City divided into zones; identification of official zoning map; changes in district boundaries and map; location of map.

2.1.1. The city is hereby divided into zones or districts as shown on the official zoning map and a metes and bounds description which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance.

2.1.2. The official zoning map shall be identified by the signature of the mayor, attested by the city clerk, and bearing the seal of the city under the following words:

"This is to certify that this is the Official Zoning Map referred to in Article 2, Section 2.1 of Ordinance 1-2010 of the City of Waterville, Maine, and effective May 10, 2010.

2.1.3. If, in accordance with the provisions of this ordinance and title 30-A M.R.S.A. as amended, changes are made in district boundaries or other matter portrayed on the official zoning map or shoreland zoning map, such changes shall be entered on said map promptly after the amendment has been approved by the City Council with an entry on the official zoning or shoreland zoning map indicating the number of the ordinance that revised the ~~zoning~~ map and the date that the ordinance was adopted. In addition, changes to the official shoreland zoning map must be made within thirty (30) days after approval of the amendment by the Commissioner of the Department of Environmental Protection.

Each revised official zoning or shoreland zoning map shall be signed by the mayor and attested by the city clerk.
[Duplicate copies of the official map need not be signed.]

2.1.4. No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedures set forth in this ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this ordinance and punishable as provided under Article 6, Section 6.1.

2.1.5. Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map, which shall be located in the office of the city clerk, shall be the final authority as to the current zoning status of land in the city.

2.2. Replacement of the official zoning map.

2.2.1. In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council, by resolution, may adopt a new official zoning map which shall supersede the prior official zoning map. The

new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the mayor, attested by the city clerk, and bearing the seal of the city under the following words:

"This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted as part of Ordinance No. 1-2010 of the City of Waterville, Maine."

Unless the prior official zoning map has been lost or totally destroyed, the prior map, or any significant parts remaining, shall be preserved together with all available documents pertaining to its adoption or amendment.

2.3. Zoning districts.

2.3.1. For the purposes of this ordinance, the City of Waterville is divided into the following classes of use districts, or zones, as shown on the official zoning map.
See also Section 4.3.25.I Shorelands Classified.

2.3.1.A. Residential districts.

2.3.1.A.(1) Low-density residential district (R-A), minimum lot fifteen thousand (15,000) square feet.

2.3.1.A.(2) Medium density residential district (R-B), minimum lot ten thousand (10,000) square feet.

2.3.1.A.(3) General residential district (R-C), minimum lot seven thousand five hundred (7,500) square feet.

2.3.1.A.(4) General residential district (R-D), minimum lot fifteen thousand (15,000) square feet.

2.3.1.A.(5) Rural residential district (R-R), minimum lot twenty thousand (20,000) square feet.

2.3.1.B. Institutional districts (INST).

2.3.1.C. Commercial districts.

2.3.1.C.(1) Commercial district (C-A).

2.4.1.D Where uncertainties exist which are not covered by subsections A through C above, the zoning board of appeals shall interpret the district boundaries. Any conflict between the zoning map and the metes and bounds description shall be resolved in favor of the metes and bounds.

ARTICLE 3. DEFINITIONS

3.1. General definitions.

3.1.1. In the interpretation and enforcement of this ordinance, all words not defined in this ordinance shall carry their customary dictionary meanings.

For the purpose of this ordinance, certain words and terms used herein are defined as follows:

"City" means the City of Waterville.

"Municipal officers" means the mayor and council.

Words used in the present tense include the past and future; and words used in the plural include the singular.

The word "shall" is always mandatory; the word "may" is permissive.

The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual. See the definition of "person" in Section 3.2.

The word "building" includes the word "structure".

The term "used or occupied" as applied to any land or building shall be construed to mean, also, "intended, arranged, or designed to be used or occupied".

3.2. Additional definitions.

Abutter: One whose property abuts, is contiguous to or joins at a border or boundary, including the property across the street, road, public way or private way.

Accessory building or structure: A building or structure on the same lot with and of a nature customarily subordinate to the principal building or structure. A deck or similar

to the principal structure by a roof or a common wall is considered part of the principal structure.

Accessory use: Accessory uses, when aggregated, shall not subordinate the principal use of the lot. The term "accessory use" shall include and apply only to the following:

1. A subordinate use of land or buildings which is customarily incidental to the main building or to the principal use of the land and which is located on the same lot with the principal building or use.
2. Required off-street parking: See Section 4.3.21 of this ordinance.
3. Signs as provided in Section 4.3.26.

Aggrieved person or party: A person who suffers a particularized injury as a result of the grant or denial of a permit, approval, or variance under this ordinance.

Agriculture: The cultivation of soil for the production or raising of food, crops, or other valuable or useful products including commercial gardening and the growing of nursery stock, but not including any agricultural industry such as fruit or poultry processing plants or fur farms.

Agriculture does not include forest management and timber harvesting activities.

Air emissions: See Section 4.3.2. Air emissions.

Alteration: A change, addition, or modification requiring construction, including any change in the location of the structural members of buildings such as bearing walls, columns, beams or girders, but not including cosmetic or decorative changes.

Amusement center: Any private, commercial premises which are maintained or operated primarily for the amusement, patronage, or recreation of the public containing four (4) or more table sports, pinball machines, video games, or similar mechanical or electronic games, whether activated by coins, tokens, or discs, or whether activated through remote control by the management.

Building height: The vertical height from the sidewalk or finished grade at the center of the front of the building to the highest portion of the roof surface, if a flat roof, to the deck line for mansard roofs, and to the mean height between eaves and ridges for gable, hip, and gambrel roofs.

Business service: A service listed under U.S. Standard Industrial Classification Code 73, including by way of example: advertising, credit reporting and collection, mailing and reproduction services, services to buildings, personnel supply services, computer and data processing services, management and public relations, similar services to businesses, and the business offices of corporations or firms. A commercial activity which renders a service performed on the customer's property where a business is the end use, and which involves no retail sales upon the premises.

Campground: See Section 4.3.7 Campgrounds.

Cluster development/planned unit development: A form of development which allows the developer flexibility in subdivision and housing design including use of detached or attached single-family, two-family, and/or multifamily dwellings, in return for setting aside a portion of the tract of land as permanent open space, in accordance with the performance standards of this ordinance. All cluster developments are subject to the provisions of the site plan review and subdivision ordinance.

Code enforcement officer: The official responsible for administering and enforcing this ordinance.

Commercial recreation, indoor: A business establishment providing indoor recreation facilities such as, but not limited to, bowling alleys, skating rinks, swimming pools, tennis or racket ball courts, but not including amusement centers.

Commercial recreation, outdoor: A business establishment providing outdoor recreational facilities such as, but not limited to, golf courses, tennis courts, swimming pools, ice skating rinks, or riding stables, but not including campgrounds.

Commercial use: The use of lands, buildings, or structures, other than "home occupations" as defined below, the intent

and result of which is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

Community living arrangements: A housing facility for 8 or fewer persons with disabilities, that is approved, authorized, certified, or licensed by the State. A community living arrangement may include a group home, foster home, or intermediate care facility. Disability has the same meaning as the term "handicap" in the Federal Fair Housing Act, 42 U.S.C. Section 3602.

Community service facility: A governmental or public service use for the general benefit of the citizens funded in whole or in part by the City of Waterville or quasi-public organization, including by way of illustration and without limitation, municipal buildings, schools, public parks, and recreational facilities, fire stations, ambulance service and sewage treatment plants.

Congregate housing: "Congregate housing" means residential housing consisting of private apartments and central dining facilities and within which a congregate housing supportive services program serves functionally impaired elderly occupants who are unable to live independently, yet do not require the constant supervision or intensive health care available at intermediate care or skilled nursing facilities. For purposes of this ordinance, congregate housing includes only those facilities which have been certified by the State of Maine as meeting all certification standards and guidelines for congregate housing facilities as promulgated by the Department of Human Services pursuant to the provisions of Maine State Statutes.

Convenience store: A retail establishment which accommodates neighborhood needs for groceries and sundries and which may sell, as accessory uses, prepared food for carry-out.

Convenience store with gas pumps: A convenience store which sells, as an accessory use, gasoline or other motor fuels at the pumps. See Section 4.3.4 Automobile businesses.

Daycare centers: See Section 4.3.9 Daycare centers.

Driveway (in the shoreland zone only): A vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.

Dwelling, one-family: A residential dwelling unit designed for and occupied by one family only. "One-family dwelling" includes modular housing.

Dwelling, two-family: A residential building used or intended to be used by not more than two (2) families living independently of one another.

Dwelling, multifamily: A dwelling or group of dwellings in one structure designed for or occupied by three (3) or more families living independently of one another with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling unit, residential: A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping, and toilet facilities. The term includes mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units. [This definition is from the Guidelines for Municipal Shoreland Zoning Ordinances.]

Emergency operations: Operations conducted for the public health, safety, or general welfare, such as, but not limited to, protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings and livestock from the threat of destruction or injury.

Essential services: Facilities for the transmission or distribution of water, gas, electricity, or communications or for the collection, treatment, or disposal of wastes, including, without limitation, towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants, and similar accessories, but not buildings. The provisions of this ordinance apply to those buildings and structures located outside of public rights-of-way, but do not apply to

Foundation: The supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts or frost walls.

Frontage, road: The linear distance measured along the front lot line which separates a lot from a public street or a private road approved in accordance with Section 4.3.22

Frontage, shore: The horizontal distance, measured in a straight line, between the intersections of the side lot lines of the lot with the shoreline at the normal high water line.

Frost wall: A masonry foundation wall extending below the ground surface, supported by footings located below the frost line to protect structures from frost heaves.

Functionally water-dependent uses: those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, inland waters and that can not be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities (excluding recreational boat storage buildings), finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses that primarily provide general public access to inland waters.

Garage sale: See "Yard sale".

Ground cover: Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

Height of a structure: The vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances which have no floor area.

High water line or elevation, normal: That line which is apparent ~~because of the character of the soil or the vegetation due to the prolonged action of the water. It is that line where the vegetation changes from predominantly aquatic to predominantly terrestrial.~~ from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river during the period of normal high-water are considered part of the river.

Home occupation. See Section 4.3.14 Home occupations.

Hotel or Motel: A commercial building or group of buildings built to accommodate, for a fee, travelers and other transient guests who are staying for a limited duration, with sleeping rooms, with or without cooking facilities, each rental unit having its own private bathroom and its own separate entrance leading either to the outdoors or to a common corridor or hallway. A hotel or motel may include restaurant facilities where food is prepared and meals served to its guests and other customers.

Household pets: Those animals normally considered as household companions, but not including horses, cows, sheep, goats, mink, swine, chicken, turkeys, or any animals raised for sale or for the sale of their products.

Increase in non-conformity of a structure: Any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that

the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

Individual private campsite: An area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fireplace, or tent platform.

Industrial: Connected with the assembling, fabrication, finishing, manufacturing, packaging, or processing of goods, or the extraction of minerals.

Institutional: Related to some public, governmental, educational, charitable, religious, medical or similar purpose.

Lots:

Lot status:

Lot: A recorded parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. To be buildable, lots must have frontage on an improved and accepted public street or on an approved and constructed private road.

Lot of record: Land designated as a separate and distinct parcel in a legally recorded deed and plan filed in the Kennebec County Registry of Deeds.

Lot, legal nonconforming: A single lot of record which, at the effective date of adoption or amendment of this ordinance does not meet the lot area, lot area per dwelling unit, lot coverage, frontage, or other dimensional requirements of the district in which it is located. It is allowed solely because it was in lawful existence at the time that Ordinance 2-1971 or subsequent amendments took effect.

Lot types:

Lot area: The total horizontal area within the lot lines as measured on a horizontal plane.

Lot area, minimum: The lot area, less the area of any land subject to rights-of-way or easements, other than utility easements serving the lot, and also excluding lands which are below the normal high water line or which are covered with water for at least three (3) months per year.

Lot coverage: The percentage of the lot covered by structures. However, in the shoreland zone, lot coverage is the percentage of the lot with unvegetated surfaces.

Yard, front: A yard adjoining the front lot line, extending between the side lot lines across the full width of a lot between the principal building and the street.

Yard, rear: A required yard adjoining the rear lot line extending across the full width of the lot behind the principal building.

Yard, side: A yard adjoining a side lot line extending from the front to the rear yard as required by district regulations.

Marina: A business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

Market value: The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Mineral exploration: Hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

Mineral extraction: See Section 4.3.10 Earth material removal regulations and 4.3.25.H.8 Mineral exploration and extraction.

Minimum lot width: See Lot width, minimum.

Minor waterway: Excluding rivers and streams, as defined, a channel between defined banks including the floodway and associated floodplain wetlands, where the channel is created by the action of surface water and characterized by the lack of upland vegetation or the presence of aquatic vegetation. The surface water may be intermittent or perennial. See Maine Department of Environmental Protection (DEP) regulations pursuant to the Natural Resources Protection Act.

Mobile homes: Mobile homes include:

Newer mobile homes: Those single- or double-wide units constructed after June 15, 1976, which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development Standards, meaning structures, transportable in one or more sections, which, in the traveling mode, are fourteen (14) feet or more in width and are seven hundred fifty (750) or more square feet in area, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein; except that the term shall include any structure which meets all the requirements of this paragraph, except the size requirement and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the national Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et seq.

Older mobile homes: Those vehicular, portable structures built on a chassis and designed to be used without a permanent foundation as a dwelling when connected to indicated utilities, but which do not meet the requirements of a "newer mobile home".

indicated utilities, but which do not meet the requirements of a "newer mobile home".

Mobile home park: A tract of land of two (2) or more acres which is used for the placement of three (3) or more mobile homes or older mobile homes according to the requirements of Section 4.3.17 of this ordinance.

Mobile home space: An area within a mobile home park containing at least the minimum square footage required per family and designed to accommodate one mobile home or older mobile home.

Modular homes: Those units which the manufacturer certifies are constructed in compliance with 10 MRSA 9042, as amended, the State's Manufactured Housing Act and regulations, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air conditioning or electrical systems contained therein. Modular homes must be a minimum of 24 feet wide by 40 feet long. This requirement is intended to assure that modular homes are compatible with site-built homes and do not have the appearance of single-wide mobile homes.

| Motel: See "hotel".

| Native: Indigenous to the local forests.

Net residential area: The area available for development, excluding the area for streets or access and the areas which are unsuitable for development as provided for in Performance Standards for the City of Waterville.

Net residential density: The number of dwelling units per net residential area.

Nonconforming, legal: Any lot, use of land, or building legally in existence at the time that Ordinance 2-1971 or subsequent amendments took effect, which does not conform to the provisions of this ordinance. [See also lot status.]

| Nonconforming lot: See lot, legal nonconforming.

Nonconforming structure: A structure which does not meet any one or more of the following dimensional requirements: setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this ordinance or subsequent amendments took effect.

Nonconforming use: Use of buildings, structures, premises, land or parts thereof which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this ordinance or subsequent amendments took effect.

Normal high water line: See high water line or elevation, normal.

Nursery school: A school offering an educational program, or a limited educational program, to children who are ineligible to attend pre-primary or kindergarten classes as offered by either the public or private school systems in the city.

Open space:

1. Any area of land, the preservation or restriction of the use of which would conserve scenic resources, enhance public recreation opportunities, promote game management, or preserve wildlife.

2. The portion of a lot or site which is maintained in its natural state or planted with grass, shrubs, trees or other vegetation and which is not occupied by buildings, structures, or other impervious surfaces such as parking.

Outdoor recreation facilities: Non-commercially operated recreation facilities open to the general public including, but not limited to, playgrounds, parks, monuments, green strips, open space, mini-parks, athletic fields, boat launching ramps, piers and docks, picnic grounds, swimming pools, and wildlife and nature preserves, along with any necessary accessory facilities, restrooms, bath houses, and the maintenance of such land and facilities. The term does not include campgrounds or commercial recreation and amusement centers as defined elsewhere in this ordinance.

Permanent structures: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months. Examples include: piers,

docks, wharfs, bridges and other structures and uses extending over or ~~beyond~~below the normal high-water line or within a wetland.

Person: An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

Personal service: A service listed under U.S. Standard Industrial Classification Code 72, and including laundry and cleaning services, photography studios, shoe repair shops, funeral homes, and similar services to the general public.

Principal building or structure: The building or structure occupied by the chief or principal use on the premises.

Principal use: The primary use to which the premises are devoted or for which the premises are arranged, designed, or intended to be used.

Private road: See Section 4.3.22 Private roads.

Professional office: A structure or space which houses the business office of a person or persons who supply a professional service other than a business service, financial service, or personal service, as defined in this ordinance. Notwithstanding the above, real estate offices are permitted.

Public service facility: Public service facilities include public parks, recreation areas, and community centers, public utilities including water supply areas, radio, television and telephone service, and electric power service.

Quasi-municipal facility: A facility for recognized public purpose, such as an auditorium, library, park, or museum which is operated by a not-for-profit organization or by a public agency other than the municipality.

Quasi-municipal services: Includes, but is not necessarily limited to, the Kennebec Water District, the Waterville Sewerage District, and the Kennebec Sanitary Treatment District.

constructed for or created by a repeated passage of motorized vehicles, excluding driveways as defined.

School: An institution for education or instruction including a college, university, and public or private school conducting classes pursuant to a program approved by the State Board of Education or similar governmental agency. This definition does not include commercially-operated schools such as schools of beauty culture, business, dancing, driving, music, or recreation which are commercial establishments.

Service establishment: The offering within a building or on the premises of services to persons or property, excluding automobile business uses, and also excluding any other use which by nature of noise, odor, or as a heavy generator of traffic, would be detrimental to the immediate neighborhood. The sale of goods is permitted only when incidental to the providing of services. The following are examples of "service establishments": barbershops, beauty parlors, clothes pressing and tailor shops, laundries, repair shops, hotels, motels, restaurants, (including establishments which primarily prepare and serve food), taverns, bowling centers, miniature golf and pool rooms, financial institutions, banks, and insurance companies.

Setback: The minimum horizontal distance from a street or property line to the nearest part of a structure.

Setback from water or shoreline setback: The horizontal distance from the normal high water elevation to the nearest part of the structure.

Shore frontage: The length of a lot bordering on a water body measured in a straight line between the intersections of the lot lines with the shoreline at normal high-water elevation.

Shoreland: All land areas within two hundred fifty (250) feet, horizontal distance, of the normal high water line of the Kennebec River and the Messalonskee Stream; within seventy-five (75) feet, horizontal distance, of the normal high-water line of streams as defined; and within twenty-five (25) feet, horizontal distance, of the normal high-water line of minor waterways designated on the shoreland zoning appendix to the official zoning map or as defined.

Structure: Anything constructed or erected, the use of which requires a fixed location on or in the ground or an attachment to something having a fixed location on the ground, including, but not limited to, buildings, commercial park rides and games, satellite receiving dishes, carports, decks, porches, and other building features, but not including signs, sidewalks, fences, driveways, and parking lots.

Structural alterations: Changes in supporting members of a building, such as supporting walls, beams, columns, and girders.

Substantial completion: Complete to the point where the owner can move in.

Substantial improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage had occurred. For purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or structural part of the building commences whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure to comply with existing state or local, health, sanitary or safety code specifications which are solely necessary to ensure safe living conditions or for any alteration of a structure listed on the National Register of Historic Places or a state or local inventory of historical places.

Sustained slope: A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Timber harvesting: The cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees is regulated pursuant to Section 4.3.25.H(5) Clearing or removal of vegetation for development activities other than timber harvesting.

the zoning district or uses in an adjoining zoning district. See Section 6.2.5.D Variances.

Vegetation: All live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.

Volume of a structure: The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Water body: The Kennebec River, the Messalonskee Stream, and streams as defined.

Water crossing: Any project extending from one bank to the opposite bank of a river, stream, or tributary stream, ~~or wetland~~, whether under, through, or over the water ~~or wetland~~. Such projects include but are not limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings.

Wetland: Any swamps, marshes, bogs and similar areas.

1. Wetlands are areas inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

2. For the purposes of the Resource Protection District, wetland means the above and areas of two (2) or more contiguous acres of forested wetland within the shoreland zone of the Kennebec River or the Messalonskee Stream designated on the shoreland zoning appendix to the official zoning map.

3. Wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

This definition of freshwater wetlands is the one referred to in Section 7.3.1.C. and Section 8.2.2.P. of the Subdivision and Site Plan Review Ordinance.

Yard [front, side, and rear]: See Lot measurements.

Woody vegetation: Live trees or woody, non-herbaceous shrubs.

Yard sale: The term "yard sale" shall include so-called garage sales, porch sales, tag sales, and the like. Unless they occur on more than three (3) consecutive days within sixty (60) days, they shall not be considered to be "used merchandise sales" as defined in this ordinance and shall not require a permit.

ARTICLE 4. GENERAL PERFORMANCE STANDARDS

4.1. Zoning affects every building and use.

4.1.1 Conformity to requirements of zoning ordinance.

4.1.1.A. No building or structure shall be erected, altered, enlarged, moved, or used, and no land shall be used except in conformity to the requirements of this ordinance. Any use not specifically listed or otherwise permitted in a district shall be deemed prohibited.

4.1.1.B. The provisions of this ordinance apply equally to all uses of land and to all buildings and structures. The provisions of this ordinance apply to all departments of the City of Waterville and apply to any quasi-municipal corporation such as, but not limited to, the water, sewer, and sewerage treatment corporations. The permit fees set forth in this ordinance and the application fees and performance guarantees set forth in Articles 5 and 6 of the Subdivision and Site Plan Review Ordinance do not apply to the City of Waterville and quasi-municipal corporations.

4.1.2. Division of lots by zoning.

4.1.2.A. Except in the shoreland zone, where a zoning district boundary line divides a lot or parcel of land of the same ownership of record, at the time such line is adopted, the regulations applicable to the less restrictive portion of such lot or parcel may apply to the other portion of the lot. However, no commercial or industrial use shall be expanded or extended into any residential zone.

4.1.3. Aviation clearances.

4.2. Nonconforming uses.

4.2.1. Uses permitted.

The use of land, building, or structure, lawful at the time of the effective date of Ordinance 2-1971 and subsequent amendments may be continued although such use does not conform with the provisions of this ordinance.

Such land, building or structure may be repaired, maintained, and improved but the area in nonconforming use may not be extended or expanded except in accordance with Section 4.2.5 through 4.2.7 below and 4.3.25.K Nonconformance if applicable.

4.2.2. Discontinuance of nonconforming use.

A nonconforming use which is discontinued or is changed to a conforming use for a period of one year may not be resumed as nonconforming. The uses of the land, building or structure thereafter shall conform with the requirements for the zone.

4.2.3. Rule of precedence.

Whenever a nonconforming use is superseded by a permitted use of a structure, or structure and land in combination, such structure or combination of land and structure shall thereafter conform to the requirements of the district and the nonconforming use may not thereafter be resumed.

4.2.4. Transfer of ownership.

Ownership of land and structures which remain lawful but become nonconforming by the passage of this ordinance may be transferred, and the new owner may perpetuate the nonconforming uses subject to the regulations herein.

4.2.5. A legal nonconforming use of land, building, or structure which is partially or totally destroyed by fire or other disaster, or voluntarily removed with the intention of replacing with another structure, may be resumed within a year of the time of such loss.

4.2.6. The code enforcement officer may issue a permit for the following modifications to existing lawful nonconforming land, buildings, and structures. Modifications to nonconforming land, buildings, and structures in the shoreland area shall be in conformance

with the provisions of Section 4.3.25.H Shoreland performance standards and 4.3.25.K Nonconformance.

(1) Expansion of the floor area in nonconforming use within an existing structure.

(2) Structural alteration and addition to a building in nonconforming use or exceeding maximum lot coverage restrictions, provided that the addition meets all building and parking setback requirements.

(3) Increase in the area of land in nonconforming use.

4.2.7. The zoning board of appeals may allow a conforming use to expand into a zone where it would be nonconforming, provided that:

(1) No structure or land use which would be nonconforming shall extend more than fifty (50) feet into the Resource Protection District. However, within the shoreland zone, no expansion ~~into a Resource Protection District~~ is allowed.

(2) The expansion conforms to the requirements of Section 4.1.2 and is on land which is adjacent to and contiguous with the conforming use at the time of adoption of this ordinance;

(3) The expansion is the same use as the conforming use; and

(4) The zoning board of appeals may require appropriate conditions and safeguards as to the use of the land.

4.2.8. Any legal nonconforming use of a structure or structure and premises may be changed to another nonconforming use provided that the zoning board of appeals finds that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the zoning board of appeals may impose appropriate conditions and safeguards in accordance with the provisions of this ordinance. With respect to such changes in shoreland areas, the zoning board of appeals must find that the proposed use is in conformance with the provisions of Section ~~4.3.25.H~~

~~Shoreland performance standards and~~ 4.3.25.K(1)(g)
~~Nonconformance~~ Change of use of a nonconforming structure.

4.2.9. Nonconformance by reason of lack of required off-street parking or off-street loading space.

A building or structure which is nonconforming as to the requirements for off-street parking space shall not be enlarged or altered to create additional dwelling units, seats, floor area, or accommodations, unless required off-street parking is provided for such addition or enlargement.

A building which is nonconforming as to the requirements for off-street loading space shall not be enlarged unless off-street loading space is provided sufficient to satisfy the requirements of this ordinance for both the addition and the original building.

4.2.10. Nonconforming lots of record.

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot ~~laid out and duly recorded of record established and recorded before July 6, 1971, without the need for a variance, provided that: on the effective date of Ordinance 2-1971 as amended such lot is in separate ownership and not contiguous with any other lot in the same ownership, all provisions of this ordinance can be met, except for lot area, lot width, road frontage, and shore frontage, and such lot has a minimum of and having an area of not less than five thousand (5,000) square feet of lot area and a minimum of frontage of not less than fifty (50) feet of road frontage.~~, notwithstanding limitations imposed by other provisions of this ordinance; provided, however, that such lot was held in separate ownership from that of adjoining land.

Variances relating to of-yard setback, shoreline setback, or other dimensional requirements not related to lot area, lot width, road frontage, or shore frontage, shall be obtained only through action of the zoning board of appeals upon finding that the variance requirements contained in Section 6.2.5.D have been met. [See the provisions for septic systems.]

4.2.11. Contiguous lots in continuous ownership.

If two (2) or more lots with continuous frontage in common ownership are of record at the time of adoption of this

stored for a period of more than six (6) months if not in condition for safe and efficient performance of the function for which it is intended.

4.3.7. Campgrounds.

4.3.7.A A campground is land accommodating one or more tents or recreational vehicles or other shelters for temporary dwelling use on sites arranged specifically for that purpose ~~and for the use of which a fee is charged.~~

4.3.7.B No recreational vehicle or tent shall be used for temporary dwelling except in an approved campground.

4.3.7.C The following minimum standards apply:

4.3.7.C(1) Campgrounds shall provide water and sewerage systems, sanitary stations, and convenience facilities in accordance with the regulations set forth by the Maine Department of Human Services.

4.3.7.C(2) Campgrounds shall contain a minimum of five thousand (5,000) square feet (not including roads and driveways) for each recreational vehicle site and a minimum of twenty-five hundred (2,500) square feet (not including roads and driveways) for each tent site. No recreational vehicle or tent site located within two hundred fifty (250) feet of the normal high water line of a ~~major waterway~~ water body shall be less than five thousand (5,000) square feet, not including roads and driveways.

4.3.7.C(3) No single site shall be less than fifty (50) feet in width.

4.3.7.C(4) Recreational vehicle and tent sites and utility and service buildings shall be set back a minimum of seventy-five (75) feet from the exterior lot lines of the campground and seventy-five (75) feet from the normal high water line of any water body.

4.3.7.C(5) All campgrounds shall be completely screened from abutting properties and from public roads by a twenty-five foot wide buffer of evergreen vegetation planted to attain a height of not less than six (6) feet within five (5) years except that safe visual clearances shall be provided at each vehicular entrance to and exit from the campground.

4.3.8.D. The board shall determine whether to allow the subdivision to be developed in accordance with the cluster standards of this section based upon written findings that:

4.3.8.D(1) The site contains natural features of the type described above which are worthy of preservation; and

4.3.8.D(2) Those natural features could not adequately be preserved in a standard subdivision layout; or

4.3.8.D(3) A clustered development will permit more efficient creation and utilization of infrastructure and provision of municipal and quasi-municipal services than would a standard subdivision layout.

4.3.8.E. Basic requirements for cluster developments:

4.3.8.E(1) Cluster developments shall meet all site plan review and subdivision requirements and all other applicable city ordinances and performance standards, except those dealing with lot layout and dimensions.

4.3.8.E(2) Allowable density shall be based on net residential density, and shall be calculated in the following manner:

4.3.8.E(2)(a) Determine the net residential area of the parcel as prescribed in Section 4.3.19 Net residential acreage calculation.

4.3.8.E(2)(b) For single-family cluster developments, divide the net residential acreage by the minimum lot size required in the district to obtain the net residential density. If individual lots are then reduced in size, the residual open space accumulated by modifying space and bulk requirements and the areas which are subtracted from the gross area to calculate net residential area shall be designated as open space.

4.3.8.E(2)(c) Within the shoreland zone, the net residential acreage must provide the total lot area, lot width, and shore frontage necessary for each residential unit on land partially or wholly within the shoreland zone.

4.3.8.E(2)(ed) For multiple-family cluster developments, divide the net residential acreage by the minimum area per

the complaint has merit, the code enforcement officer may revoke or suspend the permit.

4.3.10. Earth material removal regulations.

4.3.10.A. Filling, grading, lagooning, dredging, excavating, processing, and storing of soil, earth, loam, sand, gravel, rock, peat, or any other mineral or organic deposits which would result in erosion, sedimentation, or impairment of water quality and fish and aquatic life is prohibited.

4.3.10.B. Exclusions. Nothing herein shall be deemed to apply to normal excavation operations incidental to construction activities for which a valid permit is held. In addition, normal agricultural operations, including creation of fire ponds, shall not be considered "earth material removal".

4.3.10.C. The excavation, removal, screening, or storage of soil (including top soil, peat, loam, sand, gravel, rock or other mineral deposits) within any twelve-month period shall be approved by the code enforcement officer if the amount is one hundred (100) to nine hundred ninety-nine (999) cubic yards, inclusive, and by the planning board if the amount is one thousand (1,000) or more cubic yards.

Plans shall be in compliance with applicable state laws and accompanied by all required state permits and/or licenses.

In addition, all soil disturbance within the shoreland zone must be in accordance with Section 4.3.25.H(8) Mineral exploration and extraction and 4.3.25.~~I(3)(b)(1)(g)~~H(6)
Erosion and sedimentation control.

4.3.10.D. The applicant shall submit to the planning board plans for the proposed extraction site prepared according to the site plan review and subdivision ordinance, including all property lines and names of abutting owners and ways, and grades existing and proposed upon completion of the extraction operation. Plans shall show proposed fencing, buffer strips, signs, lighting, parking and loading areas, entrances, and exits, together with a written statement of the proposed rehabilitation and restoration of the site upon completion of the operation.

4.3.10.E. These plans and statement shall be submitted with the recommendations of the city engineer with respect to

4.3.25.B(3) Within twenty-five (25) feet, horizontal distance, of the normal high-water line of minor waterways designated on the shoreland zoning appendix to the official zoning map or as defined. Minor waterways are regulated by Maine DEP pursuant to the Natural Resources Protection Act.

4.3.25.B(4) This ordinance also applies to any structure built on, over, or abutting a dock, wharf, or pier, or other structure extending ~~beyond~~below the normal high-water line of a water body.

4.3.25.C. Planning board review. No structure shall be erected, expanded, or moved, no new lot shall be created, no topography shall be altered by excavation or filling, and no natural vegetation shall be cleared until plans have been submitted to and approved by the planning board. Activity abutting minor waterways, however, need not be reviewed by the planning board; it is subject to Maine DEP regulations pursuant to the Natural Resources Protection Act.

4.3.25.D. Site plan required. The developer shall file with the planning board a written application for approval of a contemplated use in the shoreland zone, accompanied by a twenty-five dollar (\$25.00) application fee, and a site plan of suitable scale containing the following information in addition to information required in Section 6.4. Site plan review.

4.3.25.D(1) The actual size, shape, and location of the lot to be built upon or used;

4.3.25.D(2) The exact size and location of all existing and proposed structures and off-street parking and loading areas, and/or the exact size and location of existing and proposed areas within which land use activities are to be conducted, together with the existing and proposed use of all structures and land areas;

4.3.25.D(3) The exact distance, measured horizontally, of any existing or proposed structure or land use area from each lot line and from the normal high water line;

4.3.25.D(4) The method of sanitary waste disposal and exact size and location of any subsurface waste disposal facilities. See 4.3.25.H(12) Septic waste disposal;

4.3.25.H(4) Campgrounds shall conform to Section 4.3.7 Campgrounds and the minimum requirements imposed under state licensing procedures.

4.3.25.H(5) ~~Clearing of vegetation for development.~~Clearing or removal of vegetation for activities other than timber harvesting.

4.3.25.H(5)(a) Except to allow for the development of permitted uses, within a strip of land extending seventy-five (75) feet, horizontal distance, inland from the high-water line of the Kennebec River, the Messalonskee Stream, streams, or tributary streams, a buffer strip of vegetation shall be preserved as follows:

4.3.25.H(5)(a)(1) There shall be no cleared opening greater than two hundred fifty (250) square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and or shrub/stems is allowed~~permitted~~ provided that a cleared line of sight to the water through the buffer strip is not created.

4.3.25.H(5)(a)(2) Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other vegetation is maintained. A "well distributed stand of trees" is defined as maintaining a minimum rating score of eight (8) per twenty-five foot by twenty-five foot square area (625 square feet)~~area~~. The score is determined by the following rating system:

Diameter of Tree at 4 1/2 Feet Above Ground Level (inches)	Points
2 to 4	1
Greater than 4 to 12	2
Greater than 12	4

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

Other natural vegetation also must be well distributed. "Other natural vegetation" is defined as existing

vegetation under three (3) feet in height and other ground cover, and retaining at least three (3) saplings less than two (2) inches in diameter at four and one-half (4 1/2) feet above ground level for each 25-foot by 25-foot ~~square~~rectangular area. If three (3) saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 3 saplings have been recruited into the plot.

4.3.25.H(5)(a)(3) Pruning of tree branches on the bottom one-third of the tree is ~~permitted~~allowed.

4.3.25.H(5)(a)(4) In order to maintain a buffer strip of vegetation, when the removal of storm damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

4.3.25.H(5)(a)(5) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 4.3.25.H(5) subsections (a) and (a)(1) above.

4.3.25.H(5)(b) At distances greater than seventy-five (75) feet, horizontal distance, from the normal high-water line of the Kennebec River or the Messalonskee Stream ~~except to allow for the development of permitted uses~~, there shall be permitted on any lot, in any ten-year period, selective cutting of not more than forty (40) percent of the volume of trees four and one half (4 1/2) inches or more in diameter, measured four and one-half (4 1/2) feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

4.3.25.H(5)(b)(1) In no event shall cleared openings for ~~any purpose~~development, including but not limited to, principal and accessory structures, driveways, lawns, and sewage disposal areas, exceed in the aggregate twenty-five (25) percent of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously ~~developed~~cleared. This

provision shall not apply to areas classified ~~Shoreland-B~~
~~or~~ Shoreland C.

4.3.25.H(5)(b)(2) Cleared openings legally in existence on the effective date of this ordinance may be maintained, but shall not be enlarged, except as permitted by this ordinance.

4.3.25.H(5)(b)(3) Fields and other cleared ~~areas-openings~~ which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this sSection 4.3.25.H(5) Clearing or removal of vegetation for activities other than timber harvesting.

4.3.25.H(6) Erosion and sedimentation control.

4.3.25.H(6)(a) All activities which involve filling, grading, excavation, or other similar activities which result in un-stabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the planning board for approval and shall include, where applicable, provisions for:

4.3.25.H(6)(a)(1) Mulching and re-vegetation of disturbed soil.

4.3.25.H(6)(a)(2) Temporary runoff control features such as hay bales, silt fencing, or diversion ditches.

4.3.25.H(6)(a)(3) Permanent stabilization structures such as retaining walls or riprap.

4.3.25.H(6)(b) In order to create the least potential for erosion, development shall be designed to fit with the topography and soil of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

4.3.25.H(6)(c) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

line. See 4.3.10.(H)(1) Earth material removal regulations.

4.3.25.H(8)(b)(3) Within twelve (12) months following the completion of extraction operations at any extraction site [operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve-month period] ground levels and grades shall be established in accordance with 4.3.10.H(13) and the following:

4.3.25.H(8)(b)(3)(a) Only materials generated on-site may be buried or covered on-site.

4.3.25.H(8)(b)(3)(b) The final graded slope shall be two to one (2:1) slope or flatter. See Section 4.3.10.H(3).

4.3.25.H(8)(b)(3)(c) All disturbed land areas shall be stabilized with vegetation native to the area. See 4.3.10.H(13)(d).

4.3.25.H(8)(b)(4) In keeping with the purposes of this ordinance, the planning board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

4.3.25.H(9) Parking areas. See 4.3.21, Off-street parking and loading requirements.

4.3.25.H(9)(a) Parking areas shall meet the shoreline setback requirements for structures in the district in which the parking lots are proposed, except that the setback requirement for parking areas serving public boat launching facilities may be reduced to no less than fifty (50) feet from the normal high-water line in Class A and Class B shorelands, if the planning board finds that no other reasonable alternative exists.

4.3.25.H(9)(b) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body and, where feasible, to retain all runoff on-site.

4.3.25.H(9)(c) In determining the appropriate size of proposed parking facilities, the following shall apply:

4.3.25.H(9)(c)(1) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.

4.3.25.H(9)(c)(2) Internal travel aisles: Approximately twenty (20) feet wide.

4.3.25.H(10) Piers, docks, wharfs, bridges, and other structures and uses extending over or ~~beyond~~ below the normal high-water line of a water body.

4.3.25.H(10)(a) ~~Erecting permanent structures in, on, over or abutting water bodies shall require a permit from the Maine Department of Environmental Protection as required by law.~~ New permanent piers and docks shall not be permitted unless it is clearly demonstrated to the planning board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources protection Act.

4.3.25.H(10)(b) No new structure shall be built on, over, or abutting a pier, wharf, dock or other structure extending ~~beyond~~ below the normal high-water line of a water body unless the structure requires direct access to the water as an operational necessity. Boat houses must meet the structure setback requirement.

4.3.25.H(10)(c) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses existing ~~conditions, use, and character~~ of the area. A temporary pier, dock, or wharf shall not be wider than six feet for non-commercial uses.

4.3.25.H(10)(d) Structures built on, over, or abutting a pier, wharf, dock, or other structure extending ~~beyond~~ below the normal high-water line of a water body shall not exceed twenty (20) feet in height above the pier, wharf, dock, or other structure.

4.3.25.H(10)(e) Access from the shore shall be developed on soils appropriate for such use and constructed so as to control erosion;

4.3.25.H(10)(f) The location shall not interfere with developed beach areas;

4.3.25.H(10)(g) The facility shall be located so as to minimize adverse effects on fisheries;

4.3.25.H(10)(h) No existing structures built on, over, or abutting a pier, dock, wharf, or other structure extending ~~beyond~~below the normal high-water line of a water body shall be converted to residential dwelling units in any district.

4.3.25.H(10)(i) A thirty-foot wide channel in the center of the Messalonskee Stream shall be maintained unobstructed.

4.3.25.H(11) Roads and driveways. The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts, and other related features:

4.3.25.H(11)(a) Roads and driveways shall be set back at least seventy-five (75) feet from the normal high-water line of the Kennebec River, the Messalonskee Stream, streams, or tributary streams, unless no reasonable alternative exists as determined by the planning board. If no other reasonable alternative exists, the planning board may reduce the road and/or driveway setback requirement to no less than fifty (50) feet, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body or tributary stream. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body or tributary stream.

4.3.25.H(11)(b) On slopes of greater than twenty (20) percent, the road and/or driveway setback shall be increased by ten (10) feet for each five (5) percent increase in slope above twenty (20) percent.

~~This paragraph does~~ Sections 4.3.25.H(11)(a) and (b) do not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area

shall comply fully with the requirements of Section 4.3.25.H(11) (a) and (b) except for that portion of the road or driveway necessary for direct access to the structure.

4.3.25.H(11) (c) Existing public roads may be expanded within the legal road right-of-way regardless of the required setback from a water body or tributary stream.

4.3.25.H(11) (d) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical and shall be graded and stabilized in accordance with the provisions contained in 4.3.25.H (6) Erosion and sedimentation control.

4.3.25.H(11) (e) Road and driveway segments shall have grades no greater than ten (10) percent except for ~~short~~ segments of less than two hundred (200) feet.

4.3.25.H(11) (f) In order to prevent road and driveway surface drainage from directly entering water bodies or tributary streams, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least fifty (50) feet plus two (2) times the average slope in width, between the outflow point of the ditch or culvert and the normal high-water line of a water body or tributary stream. Road and driveway surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

4.3.25.H(11) (g) Ditch relief (cross drainage) culverts, drainage dips, and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow ~~in the road, driveway, or ditch~~ gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

4.3.25.H(11) (g) (1) Ditch relief culverts, drainage dips, and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

~~Road~~-Grade
(Percent)

Spacing
(Feet)

0 to 2	250
3 to 5	200 to 135
6 to 10	100 to 80
11 to 15	80 to 60
16 to 20	60 to 45
21 and above	40

4.3.25.H(11)(g)(2) Drainage dips may be used in place of ditch relief culverts only where the ~~road~~-grade is ten (10) percent or less.

4.3.25.H(11)(g)(3) On ~~road and driveway~~ sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed ~~across the road or driveway~~ at approximately a thirty-degree angle down slope from a line perpendicular to the centerline of the road or driveway.

4.3.25.H(11)(g)(4) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

4.3.25.H(11)(h) Ditches, culverts, bridges, dips, water turnouts, and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

4.3.25.H(12) Septic waste disposal.

4.3.25.H(12)(a) All subsurface sewage disposal systems in shoreland areas shall be located in areas of suitable soil of at least one thousand (1,000) square feet in size and set back one hundred (100) horizontal feet from the normal high-water line.

4.3.25.H(12)(b) No building permit shall be issued for any structure or use involving the construction, installation, or alteration of plumbing facilities unless a permit for such facilities has been secured by the applicant indicating conformance with the Maine State Plumbing Code.

4.3.25.H(12)(c) All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules. In addition, clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions shall not

considerations shall be based primarily on criteria employed in the National Cooperative Soil Survey as modified by on-site factors such as depth to water table, depth to refusal, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

4.3.25.H(15) Stormwater runoff.

4.3.25.H(15)(a) All new construction and development shall be designed to minimize stormwater runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features such as berms, swales, terraces, and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwater.

4.3.25.H(15)(b) Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.

Repeal of Municipal Timber Harvesting Regulation.

The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S.A. section 438-B(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the shoreland zone. On the date established under 38 M.R.S.A section 438-B(5), the following provisions of this Ordinance are repealed:

In Section 4.3.25.J: Timber harvesting;

Section 6.4.2.C. All forest management activities.

Section 4.2.25.H(16) Timber harvesting in its entirety; and

Definitions, the definitions of "forest management activities" and "residual basal area".

4.3.25.H(16) Timber harvesting.

4.3.25.H(16)(a) Timber harvesting shall conform with 4.3.25.H(5), Clearing or removal of vegetation for activities other than timber harvesting development. In addition, at distances greater than 75 feet from the

| shoreline, timber harvesting operations shall not create single clearcut openings greater than ten thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5,000) square feet they shall be at least one hundred (100) feet apart. Such clearcut openings shall be included in the calculation of total volume removal. For the purposes of these standards volume may be considered to be equivalent to basal area.

4.3.25.H(16)(b). No accumulation of slash shall be left within fifty (50) feet of the normal high-water line of a water body or tributary stream. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.

4.3.25.H(16)(c) Timber harvesting equipment shall not use stream channels as travel routes except when:

4.3.25.H(16)(c)(1) Surface waters are frozen; and

4.3.25.H(16)(c)(2) The activity will not result in any ground disturbance.

4.3.25.H(16)(d) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.

4.3.25.H(16)(e) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

4.3.25.H(16)(f) On slopes of up to ten (10) percent, except for water crossings, skid trails and exposed areas of mineral soil shall be located at least seventy-five (75) feet from the normal high-water line of a water body or tributary stream. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet. The provisions of this paragraph apply only to a face sloping toward the water body or tributary stream,

provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty-five (25) feet from the normal high-water line of a water body or tributary stream.

4.3.25.H(17) Water quality. No activity shall deposit on or into the ground or discharge to the waters of the city any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body or tributary stream. See also 4.3.30 Water quality impacts.

4.3.25.I. Shorelands classified. See 4.3.25.B Applicability.

4.3.25.I(1) Class A, Class B, and Class C shorelands. For the purposes of this section, the shorelands of the Kennebec River and the Messalonskee Stream are divided into the following classes which are identified on the shoreland zoning appendix to the official zoning map:

4.3.25.I(1)(a) Class A shorelands: Areas which are not developed or which are developed less intensively than Class B shorelands. In Class A shorelands, the first one hundred (100) feet inland from the high-water line are subject to the restrictions of the Resource Protection District.

4.3.25.I(1)(b) Class B shorelands: Areas which are devoted to intensive residential, recreational, commercial, institutional, or industrial activities or combinations of such activities.

4.3.25.I(1)(c) Class C shoreland: ~~The Commercial-A and General industrial districts along the Kennebec River~~ Areas in which the natural bank of the Kennebec River or the Messalonskee Stream was/were altered and structurally stabilized to support industrial buildings [the Wyandotte Woolen Mill] or utilities [the Kennebec Water District].

4.3.25.I(2) Stream protection district.

4.3.25.I(2)(a) The stream protection district includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream (as defined), exclusive of those areas within two hundred fifty (250) feet, horizontal distance, of the normal high-water

line of the Kennebec River or the Messalonskee Stream. Where a stream and its associated shoreland area is located within two hundred fifty (250) feet, horizontal distance, of the above water bodies, that land area shall be regulated under the terms of the shoreland district associated with that water body. See Section 4.3.25.J(4) Uses permitted within the stream protection district and Section 4.3.25.J(5) Prohibited uses within the stream protection district.

4.3.25.I(3) Minor waterways. Minor waterways are those brooks designated on the shoreland zoning appendix to the official zoning map or as defined. See Maine Department of Environmental Protection regulations pursuant to the Natural Resources Protection Act.

4.3.25.I(4) Resource protection district. See Section 5.16 Resource Protection District.

4.3.25.J. Structures, lots, and uses in shoreland areas.

4.3.25.J.(1) Dimensional requirements.

	Minimum Lot Area* (Square Feet)	Minimum Shore Frontage† (Feet)	Maximum Lot Coverage (percent)
Land Use			
Residential			
Class A	40,000	200	20
Class B	40,000	200	<u>20</u>
Governmental, Institutional, Commercial, Industrial per Principal Structure*	40,000 <u>60,000</u>	300	<u>70</u>
Public and Private Recreation	40,000	200	20

Minimum Setback from ~~Highwater Line~~ Shoreline

	Principal Structure (Feet)	Accessory Structure† (Feet)
Class A	100	100
Class B	75	75
Class C	25	25
Stream protection district	75	75
Tributary streams	75	75
Minor waterways	**	**

*See 4.3.25.J(1)(a) and (c).

†Measured in a straight line between the points of intersection of the side lot lines with the shoreline at normal high-water elevation. See Section 4.3.25.J.(1)(e).

‡See 4.3.25.J(1)(b).

**See Maine Department of Environmental Protection regulations pursuant to the Natural Resources Protection Act.

4.3.25.J(1)(a) If more than one (1) residential dwelling unit, principal governmental, institutional, commercial, or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

4.3.25.J(1)(b) The following accessory structures are not subject to setback requirements: piers, docks, wharves, bridges, uses projecting into water bodies as an operational necessity, and accessory public utility installations.

4.3.25.J(1)(c) Land below the normal high-water line of a water body and land beneath roads serving more than two (2) lots shall not be included when calculating minimum lot area.

to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

4.3.25.J(1)(h) The lowest floor elevation or openings of all buildings and structures including basements shall be elevated at least one (1) foot above the elevation of the 100-year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent floodplain soils.

4.3.25.J(1)(i) Notwithstanding the requirements stated above, stairways or similar structures may be allowed, with a permit from the code enforcement officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width, that the structure does not extend below or over the normal high-water line of a water body (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38, Section 480-C), and that the applicant demonstrates that no reasonable access alternative exists on the property.

4.3.25.J(2) Permitted uses. Permitted uses are those allowed in the zone indicated on the official zoning map and listed in Article 5, unless specifically prohibited in Sections 4.3.25.J(3) and J(5).

4.3.25.J(3) Prohibited uses. The following uses are prohibited in the shorelands of the Kennebec River and the Messalonskee Stream ***unless connected to the sanitary sewer.***

4.3.25.J(3)(a) Auto washing facilities (surface water runoff must be directed to the stormwater sewer).

4.3.25.J(3)(b) Auto or other vehicle service and/or repair operations, including body shops.

4.3.25.J(3)(c) Chemical and bacteriological laboratories.

4.3.25.J(3)(d) Storage of chemicals, including herbicides, pesticides, or fertilizers other than amounts normally associated with individual households or farms.

4.3.25.J(3)(e) Commercial painting, wood preserving, and furniture stripping.

4.3.25.J(4)(a)(2) Permanent piers, docks, wharfs, bridges, and other structures and uses extending over or below the normal high-water line.

4.3.25.J(4)(a)(3) Public and private recreational areas involving minimal structural development.

4.3.25.J(4)(a)(4) Road and driveway construction. See 4.3.25.H(11) Roads and driveways.

4.3.25.J(4)(a)(5) Filling and earthmoving of more than ten (10) cubic yards.

4.3.25.J(4)(a)(6) ~~Clearing of vegetation for approved construction and other allowed uses.~~ Clearing or removal of vegetation for activities other than timber harvesting.

4.3.25.J(4)(a)(7) Timber harvesting. See 4.3.25.H(16) Timber harvesting.

4.3.25.J(4)(b) Approval of the code enforcement officer is required for the following uses:

4.3.25.J(4)(b)(1) Filling and earthmoving of less than ten (10) cubic yards.

4.3.25.J(4)(b)(2) Signs. See 4.3.25.H(13) Signs and billboards and 4.3.26 Sign regulations.

4.3.25.J(4)(b)(3) Temporary piers, docks, bridges, and other structures and uses extending over or below the normal high-water line.

4.3.25.J(5) Prohibited uses within the stream protection district.

4.3.25.J(5)(a) Mineral exploration.

4.3.25.J(5)(b) Mineral extraction including sand and gravel extraction.

4.3.25.J(5)(c) ~~Housing~~ Dwelling units.

4.3.25.J(5)(d) Commercial ~~development~~ uses.

4.3.25.J(5)(e) Industrial development.

4.3.25.J(5)(f) Governmental and institutional development, other than those uses specifically permitted in Section 4.3.25.J(4) Uses permitted.

4.3.25.J(5)(g) Campgrounds and individual private campsites.

4.3.25.J(5)(h) Parking facilities.

4.3.25.J(5)(i) The installation of essential services is not permitted in a stream protection district, except to provide services to permitted uses within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where permitted, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

4.3.25.K. Nonconformance. See Section 4.2 Nonconforming uses.

4.3.25.K(1) Nonconforming structures:

4.3.25.K(1)(a) Expansions: A nonconforming structure may be added to or expanded after obtaining a permit from the zoning board of appeals, if such addition or expansion does not increase the nonconformity of the structure and is in conformance with subsections (b) and (c) below if applicable.

4.3.25.K(1)(b) After the effective date of Ordinance 2-1971, if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream, that portion of the structure shall not be expanded, as measured in floor area or volume, by thirty (30) percent or more during the lifetime of the structure.

If a replacement structure conforms with the requirements of Section 4.3.25.K(1)(f) and is less than the required shoreline setback, the replacement structure may not be expanded if the original structure existing on the effective date of Ordinance 2-1971, had been expanded by 30% in floor area and volume since that date.

4.3.25.K(1)(c) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical

extent as determined by the planning-zoning board of appeals or its designee, basing its decision on the criteria specified in Section 4.3.25.K(1)(e) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure, it is not considered to be an expansion of the structure.

4.3.25.K(1)(d) No structure which is less than the required setback from the normal high-water line of a water body or tributary stream shall be expanded toward the water body or tributary stream.

4.3.25.K(1)(e) Relocation: A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the planning-board-zoning board of appeals or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the planningzoning board of appeals or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

When it is necessary to remove vegetation within the water setback area in order to relocate a structure, the planningzoning board of appeals shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

(a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

(b) Where feasible, when a structure is relocated on a parcel, the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

4.3.25.K(1)(f) Reconstruction or replacement, nonconforming structures. Any nonconforming structure which is located less than the required shoreline setback ~~from the normal high-water line of a water body or tributary stream~~ and which is removed, or damaged, or destroyed, regardless of the cause, by more than fifty (50) percent of the market value of the structure before such damage, destruction, or removal, may be reconstructed or replaced provided that a permit is obtained within ~~one (1) year~~ eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the ~~water-shoreline~~ setback requirement to the greatest practical extent as determined by the zoning board of appeals or its designee in accordance with the purposes of this ordinance. In no case shall a structure be reconstructed or replaced so as to increase its nonconformity.

If the reconstructed or replacement structure is less than the required setback, it shall not be any larger than the original structure, except as allowed pursuant to Sections 4.3.25.K(1)(a), (b), and (c) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required

setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure.

Any nonconforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is ~~damaged or destroyed~~ removed by fifty (50) percent or less of the market value ~~of the structure,~~ or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the code enforcement officer within one year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the ~~water~~-setback to the greatest practical extent, the zoning board of appeals or its designee shall consider, in addition to the criteria in Section 4.3.25.K(1)(e) Relocation above, the physical condition and type of foundation present, if any.

When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 4.3.25.K(1)(e) above.

4.3.25.K(1)(g) Change of use of a nonconforming structure. The use of a nonconforming structure may not be changed to another use unless the zoning board of appeals, after receiving a written application, determines that the new use will have no greater adverse impact on the water body or tributary stream or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the zoning board of appeals shall require written documentation from the applicant regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and functionally water-dependent uses.

4.3.25.L. Variances. See 6.2.5.D Variances. A copy of all variances granted by the zoning board of appeals shall be submitted to the Department of Environmental Protection within seven (7) days of the decision.

5.16.3.A. Signs.

5.16.3.A.(1) Billboards are prohibited in the Resource Protection District.

5.16.3.A.(2) Signs in the Resource Protection District shall not exceed two (2) such signs per premises, shall not be larger than two (2) square feet, shall not be higher than six (6) feet from the ground, and shall be limited to names of residents, notice of sale, and notice of no trespassing or hunting.

5.16.4. Special exceptions:

The following uses are permitted as special exceptions if approved by the code enforcement officer in conformity with the requirements of Section 5.20. If, however, site plan review by the planning board is required either under Section 6.4 or as a condition of a contract zone, no such review by the code enforcement officer is required:

5.16.4.A. Agriculture; see Section 4.3.25.H(1), Agriculture;

5.16.4.B. Small, nonresidential facilities for educational, scientific, or nature interpretation purposes;

5.16.4.C. Public and private parks and recreation areas involving minimal structural development;

5.16.4.D. Piers, docks, wharves, breakwaters, and uses projecting into water bodies;

5.16.4.E. ~~Public utilities, including sewage collection and treatment facilities.~~ The installation of essential services, other than road-side distribution lines, is ~~not not allowed~~permitted in a Resource Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed~~permitted~~, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, ~~or scenic vistas~~including visual impacts.

5.16.4.F. Earth-moving activities. See Sections 4.3.10 and 4.3.25.H(8).

5.16.5. Uses prohibited.

5.16.5.A. Residential dwelling units;

5.16.5.B. Commercial structures;

5.16.5.C. Industrial structures; and

5.16.5.D. Structures not accessory to special exceptions;

5.16.5.E. Governmental and institutional uses other than those specifically permitted in 5.16.3 Uses permitted and 5.16.4 Special exceptions;

5.16.5.F. Campgrounds and individual private campsites;

5.16.5.G. Roads, driveways, and Pparking facilities, except for parking areas serving public boat launching facilities;

5.16.5.H. Marinas;

5.16.5.I. Clearing of vegetation, except clearing which is necessary for uses specifically permitted in the Resource Protection District;

5.16.5.J. Mineral exploration;

5.16.5.K. Mineral extraction.

5.16.5.L. Essential services except as provided in Section 5.16.4.E above.

5.17. Transitional district (T).

5.17.1. Purpose.

The Transitional District is established as a zone in which the principal use of the land is residential, but other specified uses are allowed subject to design review and approval. Any future development which would detract from the residential character of the street is prohibited.

5.17.2. Principal uses permitted.

5.17.2.A. One-family dwellings.

5.17.2.B. Two-family dwellings and conversions of existing dwellings to accommodate two (2) or three (3) families.

forth in 30-A MRSA section 4452(5) as amended from time to time.

6.1.1.C. Legal action and fines.

6.1.1.C(1) When any violation of any provision of this ordinance is found to exist, including failure to comply with any subdivision or site plan approved by the planning board, or condition imposed by the planning board, zoning board of appeals, or the City Council, the code enforcement officer shall notify the city solicitor and the City Council. The City of Waterville acting through the City Council may institute proceedings to enjoin the violation or to order compliance with conditions of these ordinances.

6.1.1.C(2) Any firm, person, or corporation being the owner of or having control or use of any building or premises who violates any of the provisions of this ordinance or who fails to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances, special exceptions or contract zoning) commits a civil violation and is subject to fines. After notification of a violation, each day that the violation exists constitutes a separate offense, to a maximum of twenty-five thousand dollars (\$25,000.00).

6.1.1.C(3) The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor or agent, or other person who commits, participates in, or maintains such a violation may each be found guilty of a separate offense and suffer the penalties herein provided.

6.1.1.C(4) The minimum penalty for starting construction or undertaking a land use activity without a required permit is one hundred dollars (\$100.00), and the maximum per day penalty is twenty-five hundred dollars (\$2,500.00). However, in a resource protection district within the shoreland zone, the maximum penalty is increased to \$5,000. Additionally, if the municipality is the prevailing party, it shall be awarded reasonable attorney fees, expert witness fees, and costs, unless the court finds that special circumstances make the award of these fees and costs unjust.

6.1.2. The Code Enforcement Officer shall keep a complete record of all essential transactions within the shoreland

zone, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.

6.2. Zoning board of appeals.

6.2.1. Establishment; membership.

There shall be a zoning board of appeals of five (5) members and two (2) associate members. The members of the board shall be appointed for three-year terms by the municipal officers. Any person appointed to fill the unexpired term of a retiring member shall serve only for the remainder of the unexpired term, but shall be eligible for reappointment. The associate members shall similarly be appointed for a term of three (3) years and shall act on said board with full powers in place of any member who may be unable to act due to conflict of interest, absence, or physical incapacity. Any member may be appointed to succeed himself.

6.2.2. Officers; minutes.

The zoning board of appeals shall biennially elect a chairman and a secretary from its own membership within two (2) weeks after the city inauguration. The chairman shall preside at all meetings. The secretary shall keep the minutes of the board which shall show the vote of each member upon each question. All minutes of the board shall be public record.

6.2.3. Quorum.

A quorum will consist of four (4) members and/or associate members of the zoning board of appeals. All members, including the chairman, shall be entitled to vote. An application shall be decided by majority vote.

6.2.4. Compensation.

The chair shall be paid twenty-five dollars (\$25.00) and all other members and associate members shall be paid twenty dollars (\$20.00) for each zoning board meeting attended.

6.2.5. Powers and duties.

The zoning board of appeals also has the power to grant appeals from the provisions of this ordinance, as follows:

6.2.5.C(1) To permit the change of a lawful nonconforming use to another nonconforming use as provided in Section 4.2 of this ordinance;

6.2.5.C(2) To permit a conforming use to expand into a zone where it would be nonconforming as provided in Section 4.2;

6.2.5.C(3) Where uncertainty exists, to determine the precise location of any zoning district boundary line as specified in Section 2.4.

6.2.5.C(4) See also Section 4.3.25.K Nonconformance.

6.2.5.D. Variances.

6.2.5.D(1) Variances may be granted by the board only where strict application of this ordinance, or a provision thereof, would cause undue hardship to the petitioner and his property.

6.2.5.D(2) The words "undue hardship" as used in this subsection mean:

6.2.5.D(2)(a) That the land in question cannot yield a reasonable return unless a variance is granted;

6.2.5.D(2)(b) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

6.2.5.D(2)(c) That the granting of a variance will not alter the essential character of the locality;

6.2.5.D(2)(d) That the hardship is not the result of action taken by the applicant and/or prior owner;

6.2.5.D(2)(e) That the variance is the minimum variance that will make possible reasonable use of the land, building, or structure; and

6.2.5.D(2)(f) That a variance may only be granted for a use permitted in a particular zone.

6.2.5.D(3) Applications for variances within the shoreland zone must be submitted to Maine DEP 20 days before action is taken by the zoning board of appeals. Any comments received from the Maine DEP prior to the action by the zoning board of appeals shall be made part of the record and shall be taken into consideration by the zoning board of appeals.

Each petitioner for a variance shall submit to the board statements in writing, which may be accompanied by diagrams or photographs, which shall become part of the record of that petition demonstrating the following:

6.2.5.D(3)(a) The nature of the hardship to the property under appeal; and the physical circumstances that allegedly would occasion such undue hardship;

6.2.5.D(3)(b) That those physical circumstances are peculiar to the property under appeal and are not substantially duplicated on other property adjoining or nearby in the same neighborhood or the same zoning district;

6.2.5.D(3)(c) The relief sought would not adversely affect property adjoining or nearby in the same neighborhood or the same zoning district and would not endanger the public health, safety, or convenience and would not impair the integrity of this ordinance or of the City of Waterville Comprehensive Plan.

6.2.5.D(3)(d) Where contiguous lots in common ownership can be joined so as to eliminate substandard lots, undue hardship shall not exist and no variance shall be granted. (See section 4.2.11.)

6.2.5.D(3)(e) When a landowner purchases land with actual or constructive knowledge of zoning restrictions and/or deed restrictions, he may not be granted a variance on the grounds of undue hardship.

6.2.5.D(3)(f) The zoning board of appeals shall make written findings of fact that the applicant has satisfied each element constituting undue hardship as defined above.

6.2.5.D(4) In addition, when the proposed use is to be located in shoreland areas or the resource protection district, the zoning board of appeals shall make a positive

reconsider, the chair of the zoning board of appeals shall notify the applicant and abutting landowners notified at the time of the original application of the decision to reconsider. This notification of reconsideration shall apprise the individuals of a public hearing that will be held at the next regularly scheduled zoning board of appeals meeting. The zoning board of appeals may conduct additional hearings and receive additional evidence and testimony for any reconsideration.

6.2.6. Appeal of zoning board decision.

Any person or persons or any taxpayer, board, department or bureau of the city aggrieved by any decision of the zoning board of appeals on an original application, or its decision on a petition for reconsideration must file an appeal in accordance with Rule 80B of the Maine Rules of Civil Procedure within forty-five (45) days of the decision.

6.2.7. Limitation of powers.

The zoning board of appeals shall *not* have the power:

6.2.7.A. To permit any heavy industrial use in a commercial district, unless specifically provided for in this ordinance;

6.2.7.B. To permit any commercial use in a residential district, unless specifically provided for in this ordinance;

6.2.7.C. To permit any residential use in an industrial district, except as provided in Sections 5.11, ~~and 5.12,~~
and 4.2.7;

6.2.7.D. To allow the placement of single-wide mobile homes in other than the Rural Residential (R-R) zone, unless it is in a mobile home park, pursuant to Section 5.5.

6.2.7.E. To permit residential, commercial, and industrial structures in the resource protection district, except as provided in Section 4.2.7.

6.2.8. Zoning board of appeals procedure.

6.2.8.A. Any person seeking a decision from the zoning board of appeals may file an application with the code enforcement officer.

6.3.2.C. The board shall hold public hearings and make recommendations to the City Council on requests for rezoning and vacations of paper streets.

6.4. Site plan review.

6.4.1. Purpose. The purpose of site plan review requirements is to conserve the city's natural beauty and visual character by ensuring that structures, signs, and other improvements are properly related to their sites and to surrounding sites and structures, especially in regard to the natural terrain and landscaping. In addition to harmoniously relating to the environment, it is intended that proposed improvements promote the development of an economically sound and stable community.

6.4.2. Applicability. The following activities do not require a site plan review permit under the provisions of this ordinance, except in the shoreland zone where the provisions of Sections 4.3.25.C through 4.3.25.G apply:

6.4.2.A. All single-family detached dwelling units and accessory structures which are not in subdivisions and with less than two (2) units on a single lot.

6.4.2.B. All two-unit structures and accessory structures on single lots.

6.4.2.C. All forest management activities.

6.4.3. A site plan review permit, in accordance with the provisions of this ordinance and the Site Plan Review and Subdivision Ordinance, shall be required for the following activities unless otherwise exempted:

6.4.3.A. Any combination of building footprint and impervious area which exceeds five thousand (5,000) square feet. If no new building or addition to an existing building will be constructed, Section 6.4.3.D below applies.

6.4.3.B. New building construction consisting of four thousand (4,000) or more square feet of building footprint;

6.4.3.C. Additions to existing buildings (attached or detached) consisting of two thousand (2,000) or more square feet of building footprint;

be filed with the city clerk. This filing of the certificate shall constitute prima facie evidence of mailing of the notice to persons named in the certificate. The cost of mailing shall be the responsibility of the petitioner.

7.1.3.C. The notice as required in Subsections 7.1.3.A and B shall also contain a copy of a map indicating the property to be rezoned.

7.1.3.D. Any action challenging the validity of an amendment to this zoning ordinance or the official zoning map based on the city's failure to comply with the notice requirements of Sections 7.1.3.A and 7.1.3.B must be brought in the superior court within thirty (30) days after the adoption of the amendment. If the appellant can demonstrate that it was entitled to receive a notice under section 7.1.3.B and that the municipality failed to send the notice and that the appellant had no knowledge of the proposed amendment in question and that the appellant was materially prejudiced by that lack of notice, the superior court may then invalidate the challenged amendment.

7.1.4. Report of planning board. The planning board shall make a report in writing to the City Council within thirty (30) days of its public hearing, stating its approval or disapproval of the proposed amendment and its reasons therefor.

7.1.5. Any amendment to provisions of this ordinance must be approved by two-thirds of the members of the City Council present.

7.1.6. Notice of amendments. The Department of Environmental Protection shall be notified via a certified copy of amendments to provisions of this ordinance regulating the use of shoreland areas and such amendment shall not be effective unless approved by the DEP.

7.2. Validity.

Should any section or part of a section or any provisions of this ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not be deemed to affect the validity of any other section, subsection, or other portion of this ordinance.

7.3. Inconsistency.